IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPEAL NO. 367 OF 1992.

The State of Maharashtra ..Appellant.

vs.

Faujmal Premchand Jain. ..Respondent.

Shri D.P. Adsule, A.P.P. for the appellant-State.
None for the respondent.

CORAM: V.M.KANADE,J.
DATED: 14-1-2005.

ORAL JUDGMENT:

1. The State has filed this appeal challenging the judgment and order dated 21.12.1991 passed by the Judicial Magistrate,F.C. Palghar, in Regular Criminal Case No. 986 of 1986. By the said judgment and order dated 21.12.1991 the trial Court acquitted the accused of offences under section 7 read with 2(ia) (a) 2(ia)(c), rule 44(h) punishable under section 16 of the Prevention of Food Adulteration Act.

2. The prosecution case is that the accused was selling turmeric powder which was adulterated and which did not conform to the standard laid down under the Prevention of Food Adulteration Act and the Rules.

3. I have perused the report which is submitted by the Public Analyst. He has stated that sample

contained moisture percentage of 5.93, total ash 4.34 and total starch 41.6. The standard which is laid down under the rules clearly shows that the said percentage was within permissible limits. There is thus, total non-application of mind on the part of the sanctioning authority in issuing order of sanction. Further, it can be seen from the evidence that the accused had a valid licence from 1.4.1985 to 31.3.1986 and inspite of that, sanction to prosecute was granted by the authority. Apart from this lacuna in the prosecution case, it can be seen that there is non-compliance of Rules 14 and 16 as care has not been taken by the Inspector in ensuring that polythene bag in which this sample was taken was properly cleaned and dried at the time when sample was stored in it. The trial Court, therefore, in my view, has given cogent reasons for dismissing the case and acquitting the accused.

5. Appeal is accordingly dismissed.